

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RALPH CORDY,

Defendant.

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CASE NO. 8:06CR321

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 22) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion to suppress (Filing No. 12). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant, Ralph Cordy, is charged in a one-count Indictment with possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B). Cordy seeks an order suppressing statements made prior to the search of his residence and evidence seized as a result of the search, arguing: he was entitled to hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978); the affidavit supporting the application for the search warrant lacked probable cause; the information in the affidavit was stale; and his statements made before his home was searched were not voluntary. Judge Thalken determined: Cordy did not satisfy his burden and therefore is not entitled to a *Franks* hearing; the search warrant affidavit contained sufficient probable cause for issuance of the warrant; the information in the affidavit was not stale; assuming, for the sake of argument, that the search warrant affidavit lacked probable cause, the *Leon* good faith exception would apply.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the Defendant's brief (Filing No. 13) and the transcript (Filing No. 21). The Court has also viewed the evidence (Filing No. 19). Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 22) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 12) is denied.

DATED this 5th day of March, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge